

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VINCENT SAYLES,

Plaintiff,

-v-

CAROLYN W. COLVIN, ACTING
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9-16-14

No. 13-cv-6129 (RJS) (FM)

ORDER ADOPTING
REPORT AND RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Plaintiff Vincent Sayles brings this action pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3) to appeal the final decision of the Social Security Commissioner (“Defendant” or “Commissioner”) denying his claims for Disability Insurance Benefits and Supplemental Security Income under the Social Security Act. (Doc. No. 2.) On October 23, 2013, the Court referred this matter to the Honorable Frank Maas, Magistrate Judge, for a Report and Recommendation. (Doc. No. 6.) Thereafter, Plaintiff and Defendant each moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (Doc. Nos. 15, 17.)

Now before the Court is Judge Maas’s Report and Recommendation, dated August 28, 2014 (the “Report”), recommending that (1) Plaintiff’s motion be granted, (2) Defendant’s motion be denied, and (3) the case be remanded to the Administrative Law Judge (“ALJ”). (Doc. No. 19.) In the Report, Judge Maas informed the parties of the timeframe to file objections and advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). When no objections to a report and recommendation are made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Boyd v. City of New York*, 12-cv-3385 (PAE) (JCF), 2013 WL 452313, *1 (S.D.N.Y. Feb. 6, 2013) (citation and internal quotation marks omitted); *see also Lang ex rel. Morgan v. Astrue*, 05-cv-7263 (KMK) (PED), 2009 WL 3747169, *1 (S.D.N.Y. Nov. 6, 2009) (“[W]here a party does not submit an objection, a district court need only satisfy itself that there is no clear error on the face of the record.”) (citation and internal quotation marks omitted).

Having reviewed Judge Maas’s comprehensive and well-written forty-five-page Report, the Court finds that the reasoning and conclusions set forth therein are not facially or clearly erroneous. The Court agrees (1) that “the ALJ failed to make a determination as to Sayles’ ability to stoop or his need to alternate between sitting and standing,” (Report at 1), and (2) that “such findings have a bearing on the Step Five determination,” (*id.*). Accordingly, the Court adopts the Report in its entirety.

IT IS HEREBY ORDERED that Plaintiff’s motion for judgment on the pleadings is GRANTED, Defendant’s motion for judgment on the pleadings is DENIED, and the case is REMANDED to the ALJ pursuant to 42 U.S.C. § 405(g). The Clerk of the Court is respectfully directed to terminate the motions pending at Doc. Nos. 15 and 17 and to close this case.

SO ORDERED.

DATED: September 16, 2014
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE